

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re Application of BlueBay Asset
Management LLP, GML Capital LLP, IVO
Capital LLP, Pala Assets Holdings Limited,
RAI Investments PTE LTD., Sancta Capital
Partners LP, Sandglass Opportunity Fund,
LP, Sandglass Petrus Opportunity Fund, LP,
and VR Global Partners, L.P. for an Order
Pursuant to 28 U.S.C. § 1782 to Conduct
Discovery from Fitch Ratings Inc. and
Etihad Airways P.J.S.C. for Use in Foreign
Proceedings.

CIVIL ACTION NO. 1:20-mc-233

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***EX PARTE APPLICATION FOR AN ORDER PURSUANT TO 28 U.S.C. §1782 TO
CONDUCT DISCOVERY FROM FITCH RATINGS INC. AND ETIHAD
AIRWAYS P.J.S.C. FOR USE IN FOREIGN PROCEEDINGS***

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Capital LLP, IVO Capital LLP, Pala
Assets Holdings Limited, RAI
Investments PTE LTD., Sancta
Capital Partners LP, Sandglass
Opportunity Fund, LP, Sandglass
Petrus Opportunity Fund, LP, and
VR Global Partners, L.P.*

Based upon the annexed Declaration of Alain Nydegger dated June 16, 2020, the Declaration of Matthew J. Weldon dated June 16, 2020, and accompanying Memorandum of Law dated June 16, 2020, BlueBay Asset Management LLP, GML Capital LLP, IVO Capital LLP, Pala Assets Holdings Limited, RAI Investments PTE LTD., Sancta Capital Partners LP, Sandglass Opportunity Fund, LP, Sandglass Petrus Opportunity Fund, LP, and VR Global Partners, L.P. (“Petitioners” or “Applicants”) hereby petition and apply to this Court for an order, pursuant to 28 U.S.C. § 1782, and Rules 26 and 45 of the Federal Rules of Civil Procedure, granting Applicants leave to serve the attached subpoenas on Fitch Ratings Inc., a company found in New York, New York, and Etihad Airways P.J.S.C., another company found in New York, New York.

The requested relief seeks very limited, but needed, discovery in aid of foreign proceedings, including administrative (restructuring) proceedings currently pending before a foreign tribunal in the Republic of Italy, as well as civil proceedings that Applicants are currently investigating and contemplating bringing in Italy.

In sum, Applicants only seek disclosure of an internal debt assumption agreement (“Debt Assumption Agreement”) from Fitch Ratings Inc. and Etihad Airways P.J.S.C., referred to in a Fitch ratings commentary in May 2017 (“Fitch Rating Commentary”). As described in more detail in the Fitch Rating Commentary, by the terms of the Debt Assumption Agreement, Etihad assumed certain obligations in relation to the repayment of principal on maturity for certain debt instruments (“Alitalia Debt”) issued by Alitalia - Società Aerea Italiana S.p.A. (“Alitalia”) in which Applicants have an interest. Alitalia is and continues to be in default under its payment obligations under the Alitalia Debt, and based upon the Fitch Rating Commentary, and *inter alia* its report that the Debt Assumption Agreement was an additional source of default risk protection for Alitalia Debt, Applicants have a very strong basis to conclude that the Debt Assumption

Agreement will contain direct payment obligations relating to the Alitalia Debt. Regardless of the precise details of the Debt Assumptions Agreement, Applicants will use that document to protect their interest in the Italian solvency proceedings and pursue the rights against Etihad.

Applicants are “interested persons” in the foreign proceedings under 28 U.S.C. § 1782 (“Section 1782”), as they have an interest in the proceeds repaid on the Alitalia Debt, and Respondents are not a party to the foreign proceedings. Applicants thus meet all the statutory criteria set out in Section 1782 for the issuance of an order allowing the requested discovery. Moreover, as set forth in its Memorandum of Law filed concurrently herewith, all of the discretionary factors that this Court may consider likewise favor granting this Petition and Application.

WHEREFORE, the Applicants respectfully request that this Court enter an order:

1. Granting the Application for Discovery from Respondents pursuant to Section 1782,
2. Authorizing Applicants to take discovery from the Respondents, in accordance with the Federal Rules of Civil Procedure, and serving on the Respondents the attached subpoenas.
3. Providing that this Court shall retain such jurisdiction as is necessary to effectuate the terms of such subpoenas; and
4. Providing such other and further relief as the Court deems just and proper.

Dated: New York, New York
June 16, 2020

Respectfully submitted,

By: /s/ Matthew J. Weldon
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